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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,784	08/17/2007	Paivi Maatta	0696-0244PUS1	1424
2292 7590 08/30/2011 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER				
GOFF II, JOEIN L				
ART UNIT		PAPER NUMBER		
1746				
NOTIFICATION DATE		DELIVERY MODE		
08/30/2011		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

**Office Action Summary****Application No.**

10/585,784

**Applicant(s)**

MAATTA ET AL.

**Examiner**

JOHN GOFF

**Art Unit**

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 August 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 1-8 is/are pending in the application.
- 5a) Of the above claim(s) 1-5 is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 6,8(6) is/are rejected.
- 8) ☒ Claim(s) 7,8(7) is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 11 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-CB00)  
Paper No(s)/Mail Date \_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/6/11 has been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 103***

3. Claims 6 and 8(6) are rejected under 35 U.S.C. 103(a) as being unpatentable over Bachhofer et al. (U.S. Patent 6,060,681) in view of Fukahori (JP 06-182571 and see also the abstract and machine translation). Alternatively, Claims 6 and 8(6) are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukahori in view of Bachhofer

Bachhofer discloses an apparatus comprising a clamp (9) having jaws (10) capable of retaining two members including sealable paper or board members in position located with respect to each other and to a sealing line and a laser sealing means capable of moving along the sealing line comprising a means (13 or 14) capable of opening a seal point by pressing sealable members apart and a laser head for directing a laser beam (7) at the opened seal point including capable of melting a plastic coating at the opened seal point (Figures 1-3 and Column 2, line 38

to Column 3, line 50). The laser sealing means is capable of performing a reciprocating movement (Column 3, lines 17-21). Bachhofer is silent as to a seal closing means with the means for opening the seal point, laser head, and seal closing means being disposed to form an integral unit. However, it was known in a substantially similar apparatus comprising a clamp (14a, 14b) having jaws (13a, 13b) capable of retaining two members including sealable paper or board members in position located with respect to each other and to a sealing line and a laser sealing means capable of moving along the sealing line comprising a laser head for directing a laser beam (12) at the opened seal point including capable of melting a plastic coating at the opened seal point and following the laser head at the last a seal closing means (17) is included for the capability of pressing the members against each other and concealing the weld as shown by Fukahori (See the abstract and Figures 3-5 and Paragraphs 0017, 0019, and 0021 of the machine translation). The laser sealing means includes the laser head and seal closing means disposed to form an integral unit via frame (11) so that the means is capable of performing a reciprocating movement (Figure 4 and Paragraph 0021). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include in the apparatus taught by Bachhofer a seal closing means as suggested by Fukahori to provide the capability of pressing the members against each other to conceal the weld with the apparatus further including the means for opening the seal point, the laser head, and the seal closing means disposed to form an integral unit such as mounted on a frame as also suggested by Fukahori so that the integrated unit is capable of performing a reciprocating movement as taught by both Bachhofer and Fukahori by simply moving the integral unit. Alternatively, Fukahori is silent as to the laser sealing means including a means capable of opening a seal point by pressing sealable members apart. Fukahori

suggests the members are previously pressed apart to open the seal point without disclosing any particular means for pressing the members apart. It was known in a substantially similar apparatus to include a means capable of opening a seal point by pressing the sealable members apart with the laser sealing means capable of performing a reciprocating movement as shown by Bachhofer more fully described above. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include as part of the integral laser sealing means taught by Fukahori a means for opening the seal point as shown by Bachhofer so that the integrated unit is capable of sealing members that have not been previously spread apart to open the seal point.

It is noted "Expressions relating the apparatus to contents thereof during an intended operation are of no significance in determining patentability of the apparatus claim." and "A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim." (MPEP 2114 and 2115). The apparatus taught by Bachhofer as modified by Fukahori and Fukahori as modified by Bachhofer includes all of the structure claimed as set forth above and is capable of performing the intended use recited on the material worked upon recited, i.e. the structure is capable of sealing members made of plastic-coated paper or board by a method comprising jointing of the members along a sealing line by melting the plastic coating of at least one member with a laser beam, the plastic coating adhering the members to each other when solidified, wherein the members to be sealed are gripped adjacent the sealing line in order to retain the members in position during the sealing and performing sealing by means of a sealing means which moves

along the sealing line and presses the members apart in order to keep a seal point open, directs a laser beam to the open seal point for melting the plastic, and finally presses the members against each other for closing the seal, the laser sealing means including the means for opening the seal point, laser head, and seal closing means being disposed to form an integral unit so that a reciprocating movement is performed along the sealing line.

It is noted “means for opening the seal point” is considered to invoke 35 USC 112 sixth paragraph wherein the means (13 or 14) taught by Bachhofer for opening the seal point is considered an equivalent of the means-plus-function claimed as the means performs the function specified in the claim and is not excluded by any explicit definition provided in applicants specification.

#### ***Allowable Subject Matter***

4. Claims 7 and 8(7) would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter:

The claims are allowable for the same reasons given in paragraph 13 of the office action mailed 11/16/10.

#### ***Response to Arguments***

6. Applicant's arguments filed 7/6/11 have been fully considered but they are not persuasive.

The amendments to the specification have been entered, and the amendments overcome the previous objection to the specification. The new limitations to the integral unit are fully addressed above.

Applicants argue, "Further, the present invention relates to an apparatus for sealing members made of plastic-coated paper or board. On the other hand, Bachhofer US '681 and Fukahori JP '571 relate to the apparatus for welding metal sheets. Thus, the cited references are nonanalogous art to the present invention. Likewise, one skilled in the art is not motivated by the cited references to arrive at the present invention".

As noted by applicants claim 7 is an apparatus claim. A claim containing a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus if the prior art apparatus teaches all the structural limitations of the claim (MPEP 2114). Additionally, expressions relating the apparatus to contents thereof during an intended operation are of no significance in determining patentability of the apparatus claim. (MPEP 2115). There is no requirement that the references of the rejection expressly teach sealing members made of plastic-coated paper or board. Further, there is no requirement that the cited references be analogous art to the present invention other than the cited references teach all of the claimed structural limitations which limitations are met by the apparatus taught by Bachhofer as modified by Fukahori and Fukahori as modified by Bachhofer which apparatus including all of the claimed structural limitations is clearly capable of being employed in the intended use on the contents present in each claim. Additionally, it is noted both references are directly analogous to each other and are combinable for the reasons set forth in each rejection.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **JOHN GOFF** whose telephone number is **(571)272-1216**. The examiner can normally be reached on M-F (7:30 AM - 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katarzyna Wyrozewski can be reached on (571) 272-1127. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JOHN GOFF/  
Primary Examiner, Art Unit 1746